REMARKS

Reconsideration and allowance of the application are respectfully requested in light of the above amendments and the following remarks.

Claims 11 and 12 have been canceled in favor of new claim 13. Support for the subject matter of claim 13 is provided in cancelled claims 11 and 12 and the specification on page 10, lines 13-24. The amendments were not presented earlier due to the unforeseeability of the remarks presented in the Final Rejection.

Claims 11 and 12 were rejected, under 35 USC 103(a), as being unpatentable over Yamada et al. (US 2001/0014091) in view of Takahashi et al. (US 5,881,099). To the extent this rejections may be deemed applicable to new claim 13, the Applicant respectfully traverses based on the points set forth below.

Claim 13 defines a CDMA transmitting apparatus that: (1) increases the degree of multiplexing, within a multiplex signal, that is applied to a retransmission signal, which is spread by a plurality of spreaders, as the number of retransmissions increases and (2) decreases the degree of multiplexing applied to other spread signals within the multiplex signal as the number of retransmission increases. The claimed subject matter provides an

advantage of increasing improvement of the likelihood of receiving a retransmission signal correctly as the number of retransmissions increases, without significantly affecting the transmission efficiency of the communication (see specification page 3, line 20, through page 4, line 1).

The Final Rejection proposes that Yamada discloses, in paragraphs 5 and 6, decreasing a degree of multiplexing for signals other than a retransmission signal, within a multiplexed signal, as the number of retransmissions increases (see Final Rejection page 4, lines 10-13).

However, the Applicant notes that Yamada does not disclose or suggest communicating within a multiplexed signal both a retransmission signal and non-retransmission signals. Instead, Yamada discloses that either all non-retransmitted data are multiplexed together (see Yamada Figs. 17a and 18a) or all retransmitted data are multiplexed together (see Figs. 17b-e and 18b-c and paragraphs [0003] and [0004]).

More specifically, Yamada discloses in Figs 17a-e that for a normal transmission employing a multiplex number of M and a retransmission employing a multiplex number of M′, the retransmission of the data takes M/M′ the amount of time required to communicate the originally transmitted data. Thus, if M=4 and M′=2, the retransmitted data takes twice as long to transmit as

the originally transmitted data. This relationship necessarily requires that no data other than the retransmitted data be included in the multiplex signal.

Moreover, because Yamada discloses that only non-retransmitted data may be multiplexed together and only retransmitted data may be multiplexed together, it necessarily follows *per force* that Yamada cannot disclose the claimed feature of varying the relative degrees of multiplexing for a retransmission signal and non-retransmission signals within a multiplex signal based on the number of retransmissions.

Takahashi is not cited for supplementing the teachings of Yamada with regard to the above-mentioned features distinguishing claim 13 from Yamada.

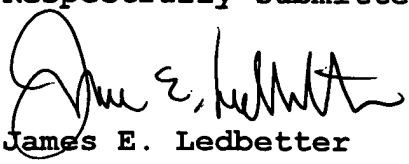
Accordingly, the Applicant respectfully submits that Yamada and Takahashi, considered individually or in combination, do not render obvious the subject matter defined by new claim 13. Therefore, allowance of new claim 13 is considered to be warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone

the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



Date: December 12, 2007

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